

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Rock n' Roll Foods, LLC; Richard "Rocky" Parks,
Plaintiffs,
v.
Stephen Frazer et al.,
Defendants.

2:15-cv-00988-JAD-CWH

Order Granting Motion to Dismiss
[#4]

In this removed action, plaintiffs Rock n' Roll Foods, LLC and Richard "Rocky" Parks allege nine claims ranging from breach of contract to securities fraud, all without any facts to support them. Doc. 1 at 6–18. Defendants Stephen Frazer and Emerging Technology Corporation move to dismiss this action for failure to state a plausible claim. Doc. 4. By their response, plaintiffs do not deny the insufficiency of their initial pleading; they argue instead that their proposed first amended complaint cures any deficiency and survives dismissal. Unfortunately, they've neither attached that new pleading nor moved for leave to file it. *See* Doc. 7

As plaintiffs tacitly concede the merits of the defendants' motion to dismiss, IT IS HEREBY ORDERED that the Motion to Dismiss [Doc. 4] is **GRANTED; all of plaintiffs' claims are dismissed without prejudice, but this case will not yet be closed. Plaintiffs have 10 days to file a proper motion for leave to amend** in compliance with the local rules and with the proposed draft amended complaint attached. The briefing on the motion for leave to amend will proceed in the normal course. If plaintiffs fail to file a timely motion for leave to amend, or if they fail to demonstrate that leave is proper, this case may be closed.

Dated this 29th day of June, 2015.



Jennifer A. Dorsey
United States District Judge